

Message Text

CONFIDENTIAL

PAGE 01 USBERL 00247 101616Z

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 IO-11

ACDA-05 /075 W

----- 006674

R 101537Z FEB 76

FM USMISSION USBERLIN

TO SECSTATE WASHDC 1960

AMEMBASSY BONN

INFO AMEMBASSY BERLIN UNN

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION NATO

C O N F I D E N T I A L USBERLIN 0247

E.O.11652: GDS

TAGS: PGOV, PFOR, WB, GW, UR

SUBJECT: SOVIET PROTEST FEDERAL ADMINISTRATIVE
COURT DECISION

1.SUMMARY : SOVIET EMBASSY PROTESTED AT POLAD LEVEL
FEBRUARY 9 DECISION TAKEN BY FEDERAL ADMINISTRATIVE
COURT IN 1975 REGARDING EMPLACEMENT OF EXPLOSIVE
CHAMBERS IN BRIDGES, CHARACTERIZING THIS AS INCOM-
PATIBLE WITH WARTIME AND POSTWAR DECISIONS CONCERNING
IN PARTICULAR DEMILITARIZATION OF BERLIN. STATEMENT
ASSERTED FURTHER THAT VERY PRESENCE AND FUNCTIONS
OF FEDERAL ADMINISTRATIVE COURT IN WESTERN SECTORS
WAS CONTRADICORY TO QA. POLAD NOTE BY WAY OF
PRELIMINARY OBSERVATION THAT ALL COURTS LOCATED IN
WEST BERLIN OPERATED IN COFORMITY WITH LAWS IN FORCE
THERE AND IN CONSONANCE WITH ALLIED RIGHTS AND
RESPONSIBILITIES. HE ADDED THE DEMILITARIZATION WAS
RESPECTED IN WEST BERLIN, WHICH WAS NOT CASE IN SOVIET
SECTOR. MISSION'S SUGGESTIONS REGARDING RESPONSE TO
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PAGE 02 USBERL 00247 101616Z

STATEMENT FOLLOW SEPTTEL. END SUMMARY.

2. ACTING SOVIET EMBASSY COUNSELLOR TRENDELEV CALLED ON CHAIRMAN POLAD(U.S) FEBRUARY 9 TO DELIVER FOLLOWING STATEMENT:

BEGIN TEXT: ACCORDING TO EXISTING INFORMATION, THE FEDERAL ADMINISTRATIVE COURT OF THE FRG, ILLEGALLY LOCATED IN THE WESTERN SECTOR OF BERLIN, TOOK A DECISION OBLIGATING CITIES AND COMMUNITIES IN THE FRG NOT TO OBSTRUCT THE EMPLACEMENT OF EXPLOSIVE CHAMBERS AND NICHES IN EXISTING BRIDGES AND IN BRIDGES UNDER CONSTRUCTION. THIS DECISION WAS MOTIVATED BY " DEFENSE CONSIDERATIONS."

THE SOVIET SIDE CONSIDERS IT NECESSARY TO DECLARE THAT THE TAKING OF SUCH DECISIONS BY COURTS IN THE WESTERN SECTORS OF BERLIN IS INCOMPATIBLE WITH FOUR-POWER AGREEMENTS AND DECISIONS OF THE WARTIME AND POSTWAR PERIODS. IN PARTICULAR, THEY DIRECTLY CONTRADICT THE ALLIED DECISIONS ABOUT DEMILITARIZATION, THE VALIDITY OF WHICH IN THE WESTERN SECTORS OF BERLIN WAS CONFIRMED BY THE AUTHORITIES OF THE THREE POWERS IN CONNECTION WITH THE SIGNATURE OF THE QUADRIPARTITE AGREEMENT OF SEPTEMBER 3, 1971.

THIS DECISION OF THE FEDERAL ADMINISTRATIVE COURT OF THE FRG AGAIN DEMONSTRATES WITH FULL CLARITY THAT THE CENTRAL FRG ORGANIZATIONS ILLEGALLY LOCATED IN THE WESTERN SECTORS OF BERLIN CARRY ON ACTIVITY IMPERMISSIBLE FROM THE POINT OF VIEW OF THE QUADRIPARTITE AGREEMENT. THE FUNCTIONING OF FRG COURTS IN THE WESTERN SECTORS OF BERLIN CONTRADICTS THE LETTER AND SPIRIT OF THIS AGREEMENT WHICH, AS IS KNOWN, CLEARLY ESTABLISHED THAT THE WESTERN SECTORS OF BERLIN ARE NOT A CONSTITUENT PART OF THE FRG AND WILL NOT BE GOVERNED BY IT IN FUTURE.

THE SOVIET SIDE EXPECTS THAT THE AUTHORITIES OF THE THREE WESTERN POWERS WILL DRAW THE NECESSARY CONCLUSIONS FROM THE ABOVE COMMUNICATION AND WILL TAKE APPROPRIATE MEASURE BOTH WITH RESPECT TO THE FRG ADMINISTRATIVE COURT AND TO THE INADMISSIBILITY IN THE FUTURE OF SUCH ACTIVITIES ON THE PART OF THE FRG AND ITS ORGANS DIRECTED TOWARDS DAMAGING THE QUADRIPARTITE AGREEMENT.

CONFIDENTIAL

PAGE 03 USBERL 00247 101616Z

QUADRIPARTITE AGREEMENT OF SEPTEMBER 3, 1971. END TEXT.

2. POLAD SAID THAT HE WOULD ACCEPT STATEMENT FOR INFORMATION. IT WOULD BE STUDIED BY THREE ALLIES, WHO WOULD IN DUE COURSE PROVIDE RESPONSE. WHEN PRESSED FOR MORE SPECIFIC INFORMATION REGARDING DATE AND CIRCUMSTANCES OF ADMINISTRATIVE COURT DECISION,

TRENDELEV COULD DO NO MORE THAN ESTIMATE THAT IT WAS
HANDED DOWN SOMETIME TOWARDS END OF 1975.

3. POLAD THEN MADE TWO GENERAL OBSERVATIONS ON
SUBJECT, REMINDING TRENDELEV THAT THESE DID NOT PRE-
CLUDE LATER AND DETAILED RESPONSE. HE NOTED IN
FIRST PLACE THAT ALL COURTS LOCATED IN WESTERN SECTORS
OF BERLIN OPERATED IN CONFORMITY WITH LAWS THAT
WERE IN FORCE IN THOSE SECTORS AND IN CONSONANCE WITH
ALLIED RIGHTS AND RESPONSIBILITIES. SECONDLY, HE
INFORMED TRENDELEV THAT DEMILITARIZATION WAS RESPECTED
IN WESTERN SECTORS. THIS REQUIREMENT ALSO CONTINUED
TO BE APPLICABLE TO SOVIET SECTOR OF CITY, WHERE IT
WAS CONSTANTLY BEING VIOLATED.

4. WITHOUT ADDRESSING LAST POINT, TRENDELEV STRESSED
BY WAY OF REJOINER SOVIET POSITION THAT "SO CALLED"
FEDERAL ADMINISTRATIVE COURT OPERATED ILLEGALLY IN
WEST BERLIN AND THAT ITS DECISION COULD NOT HAVE ANY
EFFECT IN FRG. HE WENT ON TO VOICE BELIEF THAT
FURTHER EXPANSION OF FRG ACTIVITIES IN WESTERN SECTOR
WAS AS MUCH AGAINST ALLIED AS AGAINST SOVIET INTERESTS,
WARNING THAT FUTURE WOULD SEE MORE AND MORE
MANIFESTATIONS OF FEDERAL ACTIVITY. HE ADDED THAT HE
WAS AWARE THAT BRITISH AND FRENCH MISSIONS IN BERLIN
WERE OF OPINION THAT FRG SHOULD NOT BE PERMITTED
ANY INCREASE IN ITS PRESENCE HERE(SIC).

5. COMMENT: WE RECALL HAVING SEEN BRIEF REPORT ON
THIS ADMINISTRATIVE COURT DECISION IN DIE WELT SOME-
TIME AGO, BUT WE ATTACHED NO GREAT IMPORTANCE TO IT
THEN. WE ARE NOW IN PROCESS OF TRACKING DOWN DECISION,
AND WILL SUBMIT RECOMMENDATIONS REGARDING RESPONSE
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PAGE 04 USBERL 00247 101616Z

TO SOVIET STATEMENT AS SOON AS FEASIBLE. GEORGE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: EXPLOSIVES, COURT DECISIONS, DIPLOMATIC PROTESTS
Control Number: n/a
Copy: SINGLE
Draft Date: 10 FEB 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: coburnhl
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976USBERL00247
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760051-0135
From: USBERLIN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760262/aaaaccjd.tel
Line Count: 155
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: coburnhl
Review Comment: n/a
Review Content Flags:
Review Date: 22 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <22 APR 2004 by greeneet>; APPROVED <10 AUG 2004 by coburnhl>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: SOVIET PROTEST FEDERAL ADMINISTRATIVE COURT DECISION
TAGS: PGOV, PFOR, WB, GE, UR
To: STATE BONN
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006